

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC-SDNY
DOCUMENT
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DATE FILED: 12/13/19

AUSTIN ROMAIN,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

No. 18-CV-1195 (RA)

ORDER ADOPTING REPORT AND
RECOMMENDATION

RONNIE ABRAMS, United States District Judge:

Petitioner Austin Romain, proceeding *pro se*, has moved pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence in connection with his December 2014 conviction for (1) conspiracy to distribute and possess with intent to distribute marijuana, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(D), 846; (2) accepting a bribe intending to be influenced in connection with a business, transaction, or series of transactions, of the New York City Department of Corrections, in violation of 18 U.S.C. § 666(a)(1)(B); and (3) honest services wire fraud, in violation of 18 U.S.C. §§ 1343, 1346. *See* Dkt. 1. On September 19, 2019, Magistrate Judge Gabriel W. Gorenstein issued a Report and Recommendation (the “Report”) recommending that the Court deny Petitioner’s motion. *See* Dkt. 12. Neither Petitioner nor the Government filed objections to the Report.¹

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may object to a


¹ A copy of the Report was sent to Petitioner at 265 Ocean Avenue, Apt. 3C, Brooklyn, New York 11225, *see* Report at 12, which is Petitioner’s correct address according to the Notice of Change of Address that Petitioner filed on October 1, 2018. *See* Dkt. 6.

magistrate judge's recommended findings "[w]ithin 14 days after being served with a copy of the recommended disposition." Fed. R. Civ. P. 72(b)(2). That deadline is extended to 17 days when service is made by mail. See Fed. R. Civ. P. 6(d). "When the parties make no objections to the Report, the Court may adopt the Report if 'there is no clear error on the face of the record.'" *Smith v. Corizon Health Servs.*, No. 14-CV-8839 (GBD) (SN), 2015 WL 6123563, at *1 (S.D.N.Y. Oct. 16, 2015) (quoting *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005)). "Furthermore, if as here . . . the magistrate judge's report states that failure to object will preclude appellate review and no objection is made within the allotted time, then the failure to object generally operates as a waiver of the right to appellate review." *Hamilton v. Mount Sinai Hosp.*, 331 F. App'x 874, 875 (2d Cir. 2009) (citations omitted).

As no objections to the Report were filed, the Court has reviewed Judge Gorenstein's Report for clear error. The Court finds no error and thus adopts the well-reasoned Report in its entirety. Petitioner's motion to vacate, set aside, or correct his sentence is therefore denied. The Clerk of Court is respectfully directed to mail a copy of this Order to Petitioner, to terminate all pending motions, and to close this case.

SO ORDERED.

Dated: December 13, 2019
New York, New York



Ronnie Abrams
United States District Judge